

# EXHIBIT C

# Eubanks, Kyle

Volume 1 - 10/08/2020

Summary Proceeding with Highlighted Clips

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CONFIDENTIAL

P counter-counters  
(Runtime - 00h:01m:19s)

Defense Counters  
(Runtime - 00h:05m:26s)

Plaintiffs Designation  
(Runtime - 00h:28m:32s)

Defense Objections (Runtime  
- 00h:19m:04s)

Plaintiffs Objections  
(Runtime - 00h:04m:06s)

**Page 00006**

14: The date today is Thursday, October 8, 2020, and  
15: the time is approximately 8:02 a.m. Pacific Standard Time.  
16: This deposition is taking place remotely via Zoom in the  
17: matter of Pacific Fertility Center litigation with case  
18: Number 3:18-cv-01586-JSC. This is the videotaped  
19: deposition of Kyle Eubanks.

**Page 00013**

11: Q And as of September 30th of 2020, did you work  
12: for Chart?  
13: A Yes.  
14: Q And what was your position at Chart as of  
15: September 30th?  
16: A Production supervisor.  
17: Q And is that still your title now?  
18: A Yes, ma'am.  
19: Q And how long had you been -- have you been a  
20: production supervisor?  
21: A As far as in this role, about two years, but, I  
22: mean, I've been a supervisor of other departments since  
23: 2008.

**Page 00014**

08: What have your -- would have been your  
09: responsibilities as a production supervisor?  
10: A I was just overseeing the daily activities in the  
11: production area and addressing any issues and organizing  
12: workflow.  
13: Q And what product lines are made in the area that  
14: you supervise?  
15: A The MVE freezers.

**Page 00015**

09: Q Is the MVE 808 an MVE freezer?

10: A Yes.

11: Q Are there any other product lines made in the

12: area that you supervise?

13: A No.

14: Q And what were your supervisory responsibilities

15: prior to this current position that you've held for about

16: two years?

17: A Essentially, basically the same. They were just

18: in different departments.

19: Q Which department were you in before this one?

20: A Before currently, I was a supervisor over just

21: the final portion of the production assembly and the MVE;

22: and then 2018, roughly, I became supervisor over the

23: entire line; before 2016, I was a build service technician

24: briefly.

**Page 00017**

***Defense Objections Objection - 602, 701:***

10: Q Are you familiar with the MVE 808 tank model?

11: A I am.

12: Q What do you know about that tank model?

13: A I know -- I know what it is, and I don't know

14: specifically what you want, but I know what it is. I'm

15: not -- I'm not -- I've never built it myself, but I know

16: what it is.

17: Q Have you seen it built on the line?

18: A I have.

19: Q How often does Chart build an 808?

20: A I'm not sure. One a month, maybe.

21: Q Is that the current rate, roughly? One a month?

22: A No. That's more of a guesstimation.

23: Q Okay. Is it an open-top tank?

24: A It is.

**Page 00018**

16: Q Is "open top" a term that's currently used in the

17: department?

18: A It is, and it generally refers to the 808

19: products. 808 -- sorry. 808 -- other like models, I

20: guess.

**Page 00019**

14: Q For the open-top tanks, meaning the ones without

15: lazy Susans, are there multiple models that fit that

16: description?

17: A Yes.

18: Q And what are the differences, generally, amongst

19: those models?

20: A Mainly size.

21: Q Are they generally manufactured with the same

22: process?

23: A Yes.

24: Q Are there any differences between the

25: manufacturing other than the size?

**(continued page 00020)**

0020

01: A No.

***Plaintiffs Objections 402/403 - cumulative, wastes time:***

02: Q Have you done any work with an MVE 808 tank

03: before?

04: A What do you mean by "work with"?

05: Q So I think you said you'd never built one

06: yourself; is that correct?

07: A That's correct.

08: Q Have you worked on any sub assembly for an MVE

09: 808?

10: A On the plumbing end of the line, I have.

11: (Reporter clarification.)

12: BY MS. ZEMAN:

13: Q What's the work you did?

14: A Plumbing.

15: Q And what sort of work did you do with an 808 MVE

16: on the plumbing end?

17: A I've done the function test. I have plumbed

18: those. I pretty much -- on the plumbing side, I have done

19: about everything with one.

*Plaintiffs Objections 106 - incomplete excerpt, 403 waste of time:*

20: Q What's the function test that you do?

21: A Function test is where we run the freezer through

22: a series of basically normal operations and ensure that

23: the valves and everything is working properly.

24: Q Do you do that for every tank that's built?

25: A We do if it has plumbing, yes.

**Page 00021**

*Plaintiffs Objections 402/403 - relevance, waste of time [re cold shock test]:*

09: Q And have you personally done a cold shock on an

10: 808?

11: A Yes.

12: Q Okay. What is a cold shock?

13: A A cold shock is just a -- once the freezer is

14: filled with liquid nitrogen, it's got to be held for four

15: hours, and then after that four-hour period, we can dry

16: out the nitrogen. And basically ensuring that the --

17: there's not any kind of frost built up on the outside of

18: the freezer, any kind of abnormal frost, really.

19: Q How do you go about drawing it out?

20: A We blow warm air into the inside to warm up

21: the -- or evaporate the nitrogen and dry out any  
22: condensation and such.  
23: Q How much liquid nitrogen would you place in a  
24: tank for the cold shock test?  
25: A Approximately seven inches.

(continued page 00022)

0022

01: Q And I think you said you were looking to ensure  
02: there was no frost buildup; is that correct?  
03: A It is, yeah, but the -- mostly what you look  
04: for -- it is what you look for in the cold shock at the  
05: end of the process, yes.  
06: Q And if you saw frost, what would that indicate?  
07: A A thermal short or a vacuum issue.  
08: Q Would it indicate that there was not sufficient  
09: vacuum to insulate the tank?  
10: A If there was not sufficient vacuum, then, yes,  
11: you would see frost.  
12: Q And is the cold shock test done to every tank  
13: that comes off the line?  
14: A Yes, ma'am.

Page 00025

*Plaintiffs Objections 106 - incomplete excerpt; 402/403 - relevance, waste of time:*

18: Q So what were you specifically supervising in the  
19: final assembly area?  
20: A Basically, once the freezers -- the dewar, the  
21: final portion is finished, we do all the plumbing, we test  
22: the plumbing along with the controller; like I said, the  
23: function test earlier, the cold shock, we do all that.  
24: And then once that is finished, we dry it out, put all the  
25: necessary labels, and put it in a crate.

(continued page 00026)

0026

01: Q Okay. So when it came to you in the final  
02: assembly portion, would the inner vessel already be welded  
03: into the outer vessel?  
04: A Yes.  
05: Q And would the annular lines already be installed  
06: and in place?  
07: A Yes.

Page 00028

20: Q Is there a particular criteria that a welder has  
21: to meet before they can work on the open-top tanks?  
22: A Just for the open-tops, specifically criteria?  
23: No.  
24: Q There's no certain amount of experience they need  
25: to have?

(continued page 00029)

0029

01: A No.  
02: Q Are there any particular certifications they need  
03: to have?  
04: A Not for open-tops, no.

Page 00030

07: Q How do you ensure that welders that are working  
08: on the open-top tanks are performing the welds correctly?  
09: A Well, the best check, as far as that would go,  
10: would be our mass spec.  
11: (Reporter clarification.)  
12: MR. DUFFY: S-p-e-c.  
13: BY MS. ZEMAN:  
14: Q Is there any inspection done of welds as the tank



15: is being built?

16: A Other than visual, no.

17: Q And is the visual inspection done just by the

18: welder as he or she completes a weld, or does someone else

19: also inspect?

20: A Just the welder. Whoever is doing operation.

21: Q How often does a tank fail the mass spec test?

22: A Not often.

23: Q Do you think maybe once a month?

24: A Sure. Yes.

25: Q And when a tank fails a mass spec, is it usually

**(continued page 00031)**

0031

01: possible to repair the problem?

02: A Yes.

03: Q Do you do any spot inspections of the welders

04: during the manufacturing process?

05: A Not usually, no.

06: Q Do you sometimes?

07: A I mean, if there is a new welder, I would stop

08: and check in on them, yes.

09: Q What would you check for with the new welder?

10: A Basically just do a visual inspection of their

11: welds.

12: Q Okay. And what would you be looking for in that

13: visual inspection?

14: A Primarily cosmetics.

**Page 00032**

11: A I was just going to say most freezers, that I can

12: remember, have two drawings. You have your bottle, your

13: dewar, and then you have your final drawing that includes

14: your labels, plumbing, that stuff.

15: Q So one is sort of an overview of the tank, and

16: one is more detailed?

17: A Yes.

18: Q Is the more detailed drawing considered an

19: assembly drawing?

20: A Yes.

**Page 00032**

24: Q Sure. What documents would the build team refer

25: to while manufacturing an 808 tank?

**(continued page 00033)**

0033

01: A I mean, the drawing.

02: Q Would that be the more detailed assembly drawing?

03: A That's correct.

04: Q Okay. Anything else?

05: A Not that I can think of, no.

06: Q Would they start with the work order?

07: A Yes.

08: Q And would the work order explain exactly what

09: model and how many they need to build?

10: A Yes, that's correct.

11: Q Okay. Would they also refer to a weld procedure

12: called a WPS?

13: A As far as the work order?

14: Q No. In addition to the work order and the

15: drawing, would the build team refer to a weld procedure?

16: A No.

17: Q Why not?

18: A Just not be normal daily operations to refer to

19: WPS for every model, no.

**Page 00034**

*Plaintiffs Objections 106 - incomplete excerpt:*

04: Q And is there a WPS for each tank model?

05: A No.

**Page 00040**

22: Q Okay. Are you familiar with the term "seal

23: weld"?

24: A Again, I've heard that one. I'm not super

25: familiar with it. It's not a reference I would use, but I

**(continued page 00041)**

0041

01: have heard it.

02: Q What is a seal weld?

03: A Basically just a vacuum-tight weld.

**Page 00041**

14: THE WITNESS: That was the same weld as just

15: joining two pieces together. It's just a vacuum-tight

16: weld.

**Page 00041**

24: Q Do you know what a "full penetration weld" is?

25: A Yes.

**(continued page 00042)**

0042

01: Q What's that?

02: A That's basically just where you're breaking down

03: the base metal of both -- both materials when you're

04: welding it.

05: Q Could a seal weld be a full penetration weld?

06: A Could be.

*Plaintiffs Objections 701 - improper opinion by a lay witness:*

07: Q And under what circumstances would you use a full

08: penetration weld?

09: A In a pressure-bearing vessel scenario.

10: (Reporter clarification.)

11: BY MS. ZEMAN:

12: Q Anything else?

13: A No.

14: Q Have you ever seen it used in any other context?

15: A As far as penetration?

16: Q Correct.

17: A Not that I recall, no.

**Page 00047**

11: Q And if you could open that up. It's labeled as

12: P666, and this is a document that has previously been

13: entered as Plaintiff's Exhibit 666.

14: A Sorry. I'm having trouble opening that one.

15: Q It's a little bigger. It might take a minute to

16: download.

17: A Okay. I got it.

18: Q Okay. Do you recognize this document?

19: A Yes.

20: Q What is this?

21: A It's an 808.

22: Q Is it the assembly drawing for the 808?

23: A Yes.

**Page 00048**

02: Q Okay. And if you look at the top left, just

03: underneath the bubble 43, there's a line with "GTAW" at

04: the end. Do you see that?

05: A Yes, I do.

06: Q Does that indicate a weld is to be applied in

07: that location?

08: A That's correct.

09: Q And can you tell from the drawing here what type

10: of joint or what type of weld that is supposed to be?

11: A By the drawing, no.

12: Q Does the triangle shape underneath the line mean

13: anything to you?

14: A I believe it's a weld symbol, but what it means,

15: without looking it up, I don't know.

16: Q Okay. So you recognize it as a weld symbol, but

17: you don't know any further detail about it?

18: A I believe it is, yes.

**Page 00049**

14: Q All right. One more document coming through the

15: chat. It's going to take a second to upload. This will

16: be Plaintiff's Exhibit 377.

**Page 00049**

*Defense Objections Inadmissible other occurrence evidence not previously ruled on; not substantially similar (customer abuse with hammer markings on tank in 2020) (different model of tank); FRE 403/802/803:*

25: THE WITNESS: I've got it open.

**(continued page 00050)**

0050

01: BY MS. ZEMAN:

02: Q This is a photograph of the subject tank in this

03: litigation. Can you describe the condition of it?

04: A It's a different failure. It's definitely what I

05: call imploded.

06: Q Have you seen an imploded tank before?

07: A I have.

08: Q When was that, other than this one?

09: A The exact time, I don't know. It's been quite a

10: few months, I guess.

11: Q Was it during 2020?

12: A Yes.

13: Q What were the circumstances under which you saw

14: that tank?

15: A The most recent one was customer abuse. As far

16: as we could tell, it looked damaged from what we -- it'll

17: be hard to say what it was, but it definitely looked like

18: it'd been hit multiple times with some sort of an object

19: that kind of resembled markings of a hammer, maybe.

20: Q How did you come to see that tank?

21: A It was returned here, and we uncrated it and took

22: a look at it.

23: Q Were you part of a team analyzing that tank?

24: A I was with other individuals when I looked at it.

25: I don't know if you'd say we were analyzing it, per se,

(continued page 00051)

0051

01: but we were out there looking at it when it came back,

02: yes.

03: Q What did you do with the tank after you looked at

04: it?

05: A We left it -- or I left it.

06: Q Did Chart do something with it after that?

07: A Not that I'm aware of.

08: Q Did they just leave it there indefinitely?

09: A I don't know.

10: Q Is it still there?

11: A To my knowledge. I mean, last I saw.

12: Q When's the last time you saw it?

13: A A month ago.

14: Q Where is it located?

15: A It was outside in our storage area.

16: Q What model of tank was it?

17: A 205, I believe.

18: Q Is that an open-top?

19: A It is.

20: Q Do you know what tank series it's part of?

21: A No, but -- sorry?

22: Q Do you know what -- beyond it being an open-top,

23: do you know what series of tanks it's a part of?

24: A 200 series, I believe.

25: Q Is it part of what's considered the MVE series?

(continued page 00052)

0052

01: A It is an MVE freezer, yes.

02: Q Okay. And did it look like the tank that is in

03: the photo we have as an exhibit?

04: A I don't have them side by side, but, yes, it's

05: very similar.

06: Q Do you remember any differences?

07: A Other than the hammer markings, nothing --

08: nothing comes to mind, no.

09: Q Where were the potential hammer-looking markings?

10: A I -- six or eight inches from the top, best I

11: remember. I don't remember exactly.

12: Q Were the markings on the inner vessel or the

13: outer vessel?

14: A Inner.

15: Q Were they along a weld line?

16: A That, I don't recall.

17: Q Have you seen an imploded tank other than this

18: photo and this tank earlier in 2020?

19: A I have.

20: Q How many times?

21: A I don't remember the exact number. A couple.

22: Two or three. I honestly don't remember.

23: Q So with the -- the hammer-marked tank and the  
24: subject tank in the litigation, does that make  
25: approximately five tanks that you've seen that have been

(continued page 00053)

0053

01: imploded?  
02: A Approximately, yes.  
03: Q Before the hammer-marked tank, what's the most  
04: recent tank that you had seen that was imploded?  
05: A There was another open-top dewar that was  
06: imploded. It was a 1426.  
07: Q When was that?  
08: A Roughly around the same time frame. I don't  
09: remember exactly when it came in either.  
10: Q By "the same time frame," is that earlier in  
11: 2020?  
12: A Yes.  
13: Q Would that have been -- for both tanks that  
14: you've mentioned in 2020, would that have been roughly  
15: March?  
16: A I don't remember when they actually got here.  
17: Q Did they come together?  
18: A No.  
19: Q Do you remember the tank with the potential  
20: hammer marks -- do you remember what industry the end user  
21: of that tank was in?  
22: A I do not.  
23: Q Do you remember the name of the customer who  
24: returned it to you?  
25: A I do not.

(continued page 00054)

0054



01: Q Do you remember what geographical area it came  
02: from?  
03: A I -- I do not.  
04: Q Did the 1426 look like the photo of the subject  
05: tank?  
06: A Similar, yes.  
07: Q In what ways was it different?  
08: A They were both imploded.  
09: Q Was it more or less damaged than the photo of the  
10: subject tank?  
11: A Say -- hard to say, but less.  
12: Q What did Chart do with the 1426 tank?  
13: A I don't know.  
14: Q Was there any root cause analysis done of it?  
15: A If there was, I'm not aware of it.  
16: Q Was the 1426 returned to Chart by a customer?  
17: A Yes.  
18: Q Does Chart usually conduct root cause analysis on  
19: products that are returned to it by customers?  
20: A Not always involved with all of that; so it's  
21: hard for me to answer that. I don't know.  
22: Q What do you think caused the implosion of the  
23: 1426?  
24: A I'm unsure on that one. It's -- parts of it you  
25: can't see; so it's hard to make a judgment call on it.

(continued page 00055)

0055

01: Q The 1426 that was returned to Chart in early  
02: 2020?  
03: A Correct.  
04: Q What parts were hard to see?  
05: A It has a vapor platform in it; so what's below  
06: that, you can't see.

07: Q Can the vapor platform be removed?

08: A Not easily, no. From where the -- where the

09: freezer imploded, basically trapped that in there.

10: Q If the tank were not imploded, would it be

11: possible to remove the vapor platform?

12: A That's correct.

13: Q But the deformation has made it difficult to

14: remove it?

15: A That's correct.

16: Q Do you know if Chart or anyone at Chart did

17: anything to try to disassemble that tank?

18: A Not that I'm aware of.

19: Q Do you know where that tank is now?

20: A I believe we still have it here somewhere.

21: Q Do you have an opinion about what caused it to

22: deform?

23: A I don't.

24: Q Is there any -- any additional information about

25: how the customer was using that tank?

(continued page 00056)

0056

01: A I have no idea how they were using it.

02: Q Do you know what they were storing inside of it?

03: A I do not.

04: Q Do you know what the 205 tank was being used to

05: store?

06: A I do not.

07: Q What was the tank before the 1426 that you saw

08: that was imploded?

09: A Those have been a while back. I don't recall

10: what specific models they were.

11: Q How far back?

12: A Over a year. I honestly don't remember. It's

13:                   been -- it's been a while.

14:           Q           Has it been maybe a year or two?

15:           A           I really don't recall.

16:           Q           Has it been more than ten years ago?

17:           A           No. It would have been probably within the past

18:                   four years, I guess.

19:           Q           And has it been more than one tank in addition to

20:                   the subject tank, the 205, and the 1426 that you've seen

21:                   within, say, the last four years with an implosion?

22:           A           I don't recall. I don't recall.

23:           Q           It's at least one more; is that correct?

24:           A           I have seen one more, yes.

25:           Q           Okay. And is it possibly more than one?

(continued page 00057)

0057

01:           A           Could have been. I don't remember. I may be

02:                   thinking of the same one. I don't know.

03:           Q           Okay. Do you remember what model the one was?

04:           A           No, I don't.

05:           Q           Do you remember anything about the model, whether

06:                   it was an open-top versus some -- something else?

07:           A           It was an open-top, but I -- other than that, I

08:                   don't remember.

09:           Q           And are you using open-top there in the sense of

10:                   not having a lazy Susan?

11:           A           Correct.

12:           Q           And do you know what caused that tank to deform?

13:           A           The one before the 1426?

14:           Q           Correct.

15:           A           No. No, I do not.

16:           Q           Do you know what it was used to store?

17:           A           I do not.

18:           Q           Was it a tank that had been returned by a

19: customer?  
20: A I do not recall that.  
21: Q Do you know where that tank is?  
22: A No.  
23: Q Do you think Chart still has it?  
24: A I -- not that I'm aware of.  
25: Q Do you know if there was any root cause analysis

(continued page 00058)

0058

01: done of that tank?  
02: A I have no idea.

Page 00066

07: Does the MVE 808 tank model have two annular  
08: lines?  
09: A It does.  
10: Q And when the MVE tank or an MVE 808 tank comes  
11: off of the production line as a complete tank ready to be  
12: shipped to a customer, are those annular lines straight?  
13: A Yes.  
14: Q They're not curved at all?  
15: A Sorry. You cut out there. Could you repeat it?  
16: Q The annular lines are not curved at all?  
17: A No.

*Plaintiffs Objections 402/403 - relevance, waste of time:*

18: Q Have you seen a complete inner vessel with the  
19: annular lines attached before it's placed inside of the  
20: outer vessel?  
21: A I don't recall seeing one, I guess, no.

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04: Q And are the inner vessel and the top head made of  
05: the same material?  
06: A Sorry. Can you say that again?

07: Q Are the inner vessel and the top head on the MVE  
08: 808 made of the same material?  
09: A Yes, they're both stainless steel.  
10: Q Is it stainless steel of the same thickness?  
11: A Not the same thickness, no.  
12: Q Is the outer -- is the top head thicker than the  
13: inner vessel?  
14: A Yes.

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*Defense Objections MIL No. 1 -- dissimiilar alleged other occurrence;  
FRE 403:*

11: Did Chart want to prevent that failure where the  
12: serial number was going to 0 -- did Chart want to prevent  
13: that from happening in the field?  
14: A To my knowledge, yes.  
15: Q Why?  
16: A It generated an RMA. Beyond that --  
17: Q Is that the only reason?  
18: A It's the only one that I'm aware of. Well --  
19: yes, yes.  
20: Q What would the repercussions be for the end users  
21: experiencing that failure?  
22: A Traceability, the only one that I'm aware of.  
23: Q What do you mean by "traceability"?  
24: A Without the serial number, you lose your  
25: traceability for your data log-in.

**(continued page 00086)**

0086

01: Q Were there other problems with -- that the  
02: controllers were experiencing that had the serial number  
03: going to 0 issue?  
04: A Not that I can recall.

05: Q Do you recall whether those controllers that were  
06: having the serial number going to 0 were also having  
07: trouble reading the liquid nitrogen levels?  
08: A I can't remember.  
09: Q Do you recall if those controllers were also  
10: wiping data off of the controllers?  
11: A I don't remember that either. I don't know.  
12: Q Okay. Were controllers that had the serial  
13: number going to 0 issue -- were those controllers rendered  
14: inoperable by that failure?  
15: A I don't really recall that either.  
16: Q Did you consider that issue to be a major field  
17: failure?  
18: A I don't know if you'd say it was a major field  
19: failure. I don't know what would qualify it as a major  
20: field failure, but definitely an issue.  
21: Q Why -- it was an issue that concerned you?  
22: A Sure. Nobody wants their product to come back  
23: for any reason. I certainly don't.  
24: Q Was there any other reason it was concerning to  
25: you?

(continued page 00087)

0087

01: A Other than what I just said, I mean, we don't  
02: want to have to put a bad product out; so, no, I -- we  
03: don't want anything to go wrong.

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*Defense Objections Objection - 602, 701:*

07: Q Do you think the controllers were flawed?  
08: A I'm not a -- I'm not an engineer. I'm afraid I  
09: can't really answer that one.

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10: Q Based on your experience dealing with the RMA  
11: process, do you think they were flawed?  
12: A It was definitely a recurring issue. What caused  
13: it -- obviously Brendon has a little speculation here, but  
14: if he was correct, then, sure they were flawed. But  
15: personally, I don't -- I don't know.